## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LEROY BRANCH Claimant	}
VS.	Docket No. 205 599
VAUGHAN MECHANICAL, INC.	) Docket No. 205,588
Respondent AND	}
BUILDERS ASSOCIATION SELF-INSURANCE FUND Insurance Carrier	

## ORDER

Claimant appeals from a preliminary Order entered by Special Administrative Law Judge William F. Morrissey on December 12, 1995.

## Issues

The sole issue to be considered on appeal is whether the Kansas Workers Compensation Act applies to this claim for benefits resulting from an injury which occurred in the state of Missouri.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds the decision by the Special Administrative Law Judge denying claimant's application for benefits should be affirmed.

Claimant seeks benefits for an injury which occurred in Missouri. Claimant does not contend that his principal place of employment was in Missouri but argues, instead, that a contract for employment was entered in Kansas. See K.S.A. 44-506.

The record establishes that claimant, a member of Plumbers Local Union No. 8, was employed by respondent from a referral by the business agent of the Union. The business agent called claimant at his home in Kansas and advised him there was work available with Vaughan Mechanical in Missouri and asked if claimant wanted the work. Claimant advised him that he did and told the agent he would be at the job site the following morning. Claimant did, in fact, go to respondent's facilities the following morning to report for work. When he arrived he was, in fact, put to work immediately. The hourly rate for claimant's pay is established pursuant to an agreement between the Union and those employers that contracted with the Union.

As the briefs by both parties indicate, the contract is considered to have been entered in the state where the last act necessary to complete the contract was performed.

The determining factor in this case is Section 5.1 of the Union contract with Vaughan which provides as follows:

"The Union shall be the source of referral of applicants for employment with the Contractor. . . . The Contractor retains the right to reject any job applicant referred by the Union. . . . "

Under these circumstances, the Appeals Board finds the claimant's arrival at the job site and his having been placed to work immediately was the last act necessary to create the contract. The contract, therefore, was created in Missouri. Neumer v. Yellow Freight Systems, Inc., 220 Kan. 607, 556 P.2d 202 (1976); Smith v. McBride & Dehmer Construction Co., 216 Kan. 76, 530 P.2d 1222 (1975).

**WHEREFORE**, the Appeals Board finds that the preliminary Order by Special Administrative Law Judge William F. Morrissey dated December 12, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.
Dated this day of February 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Frank D. Taff, Topeka, KS Wade A. Dorothy, Lenexa, KS William F. Morrissey, Special Administrative Law Judge Philip S. Harness, Director